

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to consider Smart Grid Technologies Pursuant to Federal Legislation and on the Commission's own Motion to Actively Guide Policy in California's Development of a Smart Grid System.	Rulemaking 08-12-009 (Filed December 18, 2008)
--	---

DECISION GRANTING COMPENSATION TO THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTION TO DECISION 12-08-045

Claimant: The Utility Reform Network (TURN)	For contribution to Decision (D.) 12-08-045
Claimed (\$): \$20,721.25	Awarded (\$): \$20,090.00 (reduced 3%)
Assigned Commissioner: Michael R. Peevey	Assigned ALJ: Timothy J. Sullivan

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	D.12-08-045 establishes privacy protections regarding customer usage data for gas customers of Pacific Gas and Electric Company (PG&E), Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E), customers of Community Choice Aggregators (CCA) and residential/small commercial customers of electric service providers (ESPs).
--	---

B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	Recent: September 16, 2011 Original: March 27, 2009 in same proceeding	Verified ^[A]

PROPOSED DECISION

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
2. Other Specified Date for NOI:		
3. Date NOI Filed:	April 24, 2009 filed in prior phase of this proceeding	Verified
4. Was the NOI timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	R.08-12-009	Verified
6. Date of ALJ ruling:	May 13, 2009	Verified
7. Based on another CPUC determination (specify):		
8. Has the Claimant demonstrated customer or customer-related status?		Yes ^[B]
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	R.08-12-009	Verified
10. Date of ALJ ruling:	May 13, 2009	Verified
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		Yes ^[B]
Timely request for compensation (§ 1804©):		
13. Identify Final Decision:	D.12-08-045	Verified
14. Date of Issuance of Final Order or Decision:	August 31, 2012	Verified
15. File date of compensation request:	October 30, 2012	Verified
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I:

#	CPUC Comments
A	TURN previously filed a timely NOI earlier in the same proceeding, and relies on the same NOI here. A separate NOI was not filed following the pre-hearing conference for this decision (D. 12-08-045).
B	Earlier in this proceeding the ALJ determined that TURN has shown both customer-related status and has demonstrated significant financial hardship.

PART II: SUBSTANTIAL CONTRIBUTION

A. In the fields below, describe in a concise manner Claimant's contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059).

Intervenor's Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
<p>1.Application of privacy rules to gas companies</p> <p>In the Scoping Memo of October 7, 2011 the Assigned Commissioner asked parties to comment on whether the Commission should extend the privacy rules as adopted and as written.in D.11-07-056 to gas corporations.</p> <p>TURN advocated that the Commission should apply the same rules it had previously adopted for electric utilities to gas companies. TURN also urged the Commission to consider the benefits to consumers of uniformity and consistency of privacy policies so that consumers are not getting one privacy policy for their electric service and another different policy for gas.</p> <p>TURN also supported the position of SoCalGas that the privacy rules should not apply to them until they have implemented smart meter deployment.</p> <p>D.12-08-045 essentially adopted the same privacy policies for both electric and gas utilities with some exceptions, consistent with TURN's advocacy. D.12-08-045 also agreed with TURN's argument re the need for consistency of policies stating "We find convincing the arguments of TURN and DRA that residential and small commercial customers should face consistent privacy policies concerning data generated by AMIs of PG&E, SCE and SDG&E.").</p>	<p>Assigned Commissioner Scoping Memo and Ruling Amending Scope of Proceeding, Initiating Phase 2 and Setting Schedule for Resolution of Outstanding issues (October 7, 2011), p. 5.</p> <p>Comments of TURN (February 3, 2012), pp. 2-3.</p> <p>Reply Comments of TURN (February 17, 2012), p. 1.</p> <p>D.12-08-045, p. 14, COL 1.</p> <p>D.12-08-045, p. 30.</p>	<p>Yes</p>

PROPOSED DECISION

Intervenor's Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
<p>2.Commission jurisdiction to apply privacy rules to ESPs</p> <p>An Administrative Law Judge's Ruling Seeking Additional Information (January 11, 2012) asked parties to comment on whether the Commission had authority to apply the privacy rules to entities other than electric utilities.</p> <p>TURN argued that the Commission has the jurisdiction to apply privacy rules to electric, gas and ESPs. In particular, TURN argued re ESPs that, at a minimum, the Commission has the authority over ESPs serving residential and small commercial customers.</p> <p>D.12-08-045 agreed with TURN and held that the Commission has the authority to require ESPs serving residential and small commercial customers to comply with the privacy rules that the Commission was applying to electric utilities.</p>	<p>Administrative Law Judge's Ruling Seeking Additional Information (January 11, 2012), p. 3.</p> <p>Comments of TURN (February 3, 2012), pp. 2, 4.</p> <p>Reply Comments of TURN (February 17, 2012), pp. 3-4.</p> <p>D.12-08-045, p. 30</p>	<p>Yes</p>
<p>3. Application of the privacy rules to ESPs</p> <p>In the Scoping Memo of October 7, 2011 the Assigned Commissioner asked parties to comment on whether the Commission should extend the privacy rules as adopted and as written.in D.11-07-056 ESPs.</p> <p>TURN had argued that residential and small commercial customers served by ESPs should be entitled to the same privacy protections as customers of electric and gas utilities.</p> <p>The ESPs argued that ESPs that serve residential and small commercial</p>	<p>Assigned Commissioner Scoping Memo and Ruling Amending Scope of Proceeding, Initiating Phase 2 and Setting Schedule for Resolution of Outstanding issues (October 7, 2011), p. 5.</p> <p>Comments of TURN (February 3, 2012), p. 4.</p>	<p>Yes</p>

Intervenor's Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
<p>customers who are “incidental” to service to large and medium commercial customers should not be included as being subject to the privacy rules. TURN opposed this exclusion arguing that all residential and small commercial customers deserve the same level of protection.</p> <p>In D.12-08-045, the Commission agreed with TURN that the privacy protections should apply to ESPs serving residential and small commercial customers. While the Commission did not adopt TURN's position vis-à-vis the exclusion for ESPs serving “incidental” residential/small commercial users, TURN submits that TURN's advocacy was important for the Commission's full consideration of this issue.</p>	<p>Reply Comments of TURN (February 17, 2012), pp. 3-4.</p> <p>D.12-08-045, p. 30, COL 13.</p>	

B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was the Office of Ratepayer Advocates (ORA)¹ a party to the proceeding?	Yes	Verified
b. Were there other parties to the proceeding with positions similar to yours?	No	Verified
c. If so, provide name of other parties:		
<p>d. Describe how you coordinated with ORA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:</p> <p>TURN had several discussions with DRA to compare analysis and positions. Those interactions resulted in some similarity in our respective advocacy. On other issues, however, TURN and DRA took different positions. TURN took all reasonable steps to keep duplication to a minimum. Under these circumstances TURN's compensation in this proceeding should not be reduced for duplication.</p>		Verified

¹ The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013), which was approved by the Governor on September 26, 2013.

PART III: REASONABLENESS OF REQUESTED COMPENSATION**A. General Claim of Reasonableness (§§ 1801 & 1806):**

<p>a. Intervenor's claim of cost reasonableness:</p> <p>As with many quasi-legislative proceedings, the precise benefits to consumers from TURN's participation in this docket are difficult to quantify. However, the issues at stake in this proceeding and the rules promulgated by the Commission directly impact consumers. Privacy protections are critically important as consumers utilize smart meters so their personal data and information is only used in a manner consistent with consumers' wishes.</p>	<p>CPUC Verified</p> <hr/> <p>Verified</p>
<p>b. Reasonableness of Hours Claimed.</p> <p>TURN was an active participant in the first phase of this proceeding and was awarded compensation for its substantial contributions in D.12-05-034.</p> <p>In Phase 2 Mr. Nusbaum was the lead attorney for TURN. The total hours included in this request represent a little over a 40-hour week of attorney time. In light of the importance and complexity of the policy issues addressed, the Commission should find TURN's request for intervenor compensation to be reasonable.</p> <p>Mr. Hawiger's 1.25 hours was focused on bringing Mr. Nusbaum up-to-speed given that Mr. Hawiger was the lead attorney for Phase 1 of this proceeding. Mr. Long's recorded 2.25 hours in his role generally supervising the work of TURN's attorneys.</p>	<p>Verified</p>
<p>c. Allocation of Hours by Issue</p> <p>TURN has allocated its time entries by activity codes. The list of codes and their description:</p> <p>GP – General Preparation: time for activities necessary to participate in the docket.</p> <p>L - Legal issues associated with the extent of the Commission's jurisdiction to apply the privacy rules to various entities.</p> <p>G – Issues associated with application of the privacy rules to gas utilities.</p> <p>E - Issues associated with application of the privacy rules to ESPs.</p>	<p>Verified</p>

W – Issues associated with workshops

- Where time entries cannot easily be identified with a specific activity code. For these entries, the allocation of time spent on activities can be broken down as such: L 15%, G 25%, E 60%

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
William Nusbaum	2011	13.25	\$435 ^[A]	Res. ALJ 247	\$5,763.75	12.5 ^[B]	\$435	\$5,437.50
William Nusbaum	2012	28	\$445 ^[A]	See Comment 1	\$12,460.00	28	\$445	\$12,460.00
Marcel Hawiger	2011	1.25	\$350 ^[A]	Res. ALJ 247	\$437.50	0.75 ^[B]	\$350	\$262.50
Tom Long	2011	2.25	\$520 ^[A]	See Comment 2	\$1,170.00	2 ^[B]	\$520	\$1,040.00
	Subtotal:				\$19,831.25	Subtotal:		\$19,200.00
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
William Nusbaum	2012	4	\$222.50	See Comment 1 (@ 50% of proposed rate)	\$890	4	\$222.50	\$890.00
	Subtotal:				\$890.00	Subtotal:		\$890.00
TOTAL REQUEST \$:					\$20,721.25	TOTAL AWARD \$:		\$20,090.00

*We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.

**Reasonable claim preparation time typically compensated at ½ of preparer's normal hourly rate.

ATTORNEY INFORMATION			
Attorney	Date Admitted to California Bar²	Member Number	Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation
Marcel Hawiger	January 23, 1998	194244	No
Tom Long	December 11, 1986	124776	No
William R. Nusbaum	June 07, 1983	108835	No

C. Attachments Documenting Specific Claim and Comments on Part III:

Attachment or Comment #	Description/Comment
1	Certificate of Service
2	<p>Contemporaneous Time Sheets for Attorney, Advocate and Experts.</p> <p>A daily listing of the specific tasks performed by Mr. Nusbaum, Mr. Hawiger, and Mr. Long in connection with this proceeding is set forth in Attachment 2. TURN’s staff maintained detailed contemporaneous time records indicating the number of hours devoted to work on this case. In preparing this appendix, Mr. Nusbaum reviewed all of the recorded hours devoted to this proceeding and included only those that were reasonable for the underlying task.</p>
Comment 1	<p>Hourly Rate for William Nusbaum in 2012</p> <p>Consistent with the Cost-of-Living Adjustment authorized by Resolution ALJ-281, the hourly rate for William Nusbaum in 2012 is increased by 2.2%. Since this adjustment raises Mr. Nusbaum’s rate to \$444.57, TURN rounds this to the nearest \$5 increment (\$445).</p>
Comment 2	<p>Hourly Rate for Mr. Long for 2011</p> <p>In a compensation request filed in A.09-10-013 on February 17, 2012, TURN sought an hourly rate for Mr. Long of \$520 for 2011 work. That request has yet to be acted upon by the Commission.</p>
Comment 3	TURN used 50% of the requested 2012 hourly rate as the billing rate for the compensation request, prepared by Mr. Nusbaum in 2012.

² This information may be obtained at: <http://www.calbar.ca.gov/>.

D. CPUC Disallowances and Adjustments:

#	Reason
(A) Compensation Rates	The requested intervenor compensation rates for Nusbaum, Hawiger, and Long have previously been approved in proceedings related to Decisions D. 13-12-051, D. 11-09-037, and D. 13-12-028.
(A) Duplicative Efforts Reduction	Reduction in hours for Nusbaum, Hawiger, and Long for duplicative meetings and research of case status.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No
---	----

B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(2)(6))?	Yes
--	-----

FINDINGS OF FACT

1. TURN has made a substantial contribution to Decision (D.)12-08-045.
2. The requested hourly rates for TURN's representatives are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$20,090.00.

CONCLUSION OF LAW

The Claim, with any adjustment set forth above, satisfies all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. The Utility Reform Network is awarded \$20,090.00.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas and Electric Company, and Southern California Edison Company shall pay The Utility Reform Network (TURN) their respective shares of the award, based on their California-jurisdictional gas revenues for the 2012 calendar year. Payment of the award shall include interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning January 13, 2013, the 75th day after the filing of TURN's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.

This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1208045		
Proceeding(s):	R0812009		
Author:	ALJ Sullivan		
Payer(s):	Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	10/30/2012	\$20,721.25	\$20,090.00	N/A	N/A

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Marcel	Hawiger	Attorney	TURN	\$350	2011	\$350
Tom	Long	Attorney	TURN	\$520	2011	\$520
William	Nusbaum	Attorney	TURN	\$435	2011	\$435
William	Nusbaum	Attorney	TURN	\$445	2012	\$445

(END OF APPENDIX)